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PLANNING AND HERITAGE STATEMENT

PROPOSED DEMOLITION AND REPLACEMENT DWELLING INCORPORATING A BASEMENT

**38 FROGNAL LANE, LONDON,
NW3 6PP**

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APPENDICES

1. PROPERTY PLANNING HISTORY
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1. INTRODUCTION

- 1.1 This Planning and Heritage Statement accompanies an application for planning permission for the demolition of the existing dwelling at 38 Frogna! Way, Hampstead, and its replacement with a new dwelling incorporating a basement.
- 1.2 The current scheme is submitted following a recent application at the site which also sought demolition of the existing building and its replacement. The related application (ref. 2019/4220/P) benefits from a resolution of the Council to grant planning permission, subject to the completion of a s106 Agreement. That application was submitted on behalf of the current freehold owner of the site who sought consent to demolish the property, and to rebuild it such that it would appear consistent with a previous consent (ref. 2018/5502/P which itself consolidated a number of previous extensions and alterations to the existing property), albeit with a minor amendment to the window positions.
- 1.3 In the lead up to the previous application, despite having consent for extensions and alterations to the property (application ref. 2018/5502/P) it was considered, having undertaken an objective appraisal of the construction impacts of the extant planning permission, that the demolition of the property would represent an optimal solution both in terms of substantially reducing the length of the construction phase (to the betterment of local amenity) and in relation to the environmental performance of the resultant property. It was also considered that the quality of that property would be enhanced, particularly in terms of materials and finishing (relative to the need to 'blend' materials in respect of alterations and extensions to the existing property).
- 1.4 These benefits were ultimately recognised by the Council's Planning Committee who, on 18th June 2020, resolved to grant permission subject to the completion of a s106 Agreement.

- 1.5 A private individual is now in the process of acquiring the property, which they wish to enhance through a number of design enhancements and also through the inclusion of a basement. The client has instructed a professional team to undertake a review of the property and promote design solution which, whilst respecting the broad principles establish here, fundamentally create a dwelling to suit the particular needs of its owner, whilst also delivering a dwelling of significantly greater quality.
- 1.6 To help achieve this, the client has instructed Charlton Brown, a pre-eminent Hampstead-based architectural practice and interior design studio with substantial pedigree in the design of unique, high quality residential schemes. They are supported by Martin Robeson Planning Practice, retained from the previous planning application and bringing to the project considerable knowledge of Hampstead and conservation policies and issues. Furthermore, the client has instructed a team of experts to advise on a broad range of technical matters.
- 1.7 Whilst the principle of demolition of the property has been established, this was on the basis of no harm to the character and appearance of the conservation area and significantly enhanced environmental performance of the replacement dwelling. It is acknowledged that any future alternative scheme must at the very least achieve these same objectives and secure further enhancements, including in respect of design, energy and sustainability. Indeed, it will be demonstrated that the proposed development is not only consistent with relevant planning policies (see Section 5) but also secures benefits over the recent resolution to grant scheme.
- 1.8 This Statement reviews the background to the property and proposal in more detail, including relevant planning and appeal decisions, and other material considerations. The third section confirms relevant local and national planning

policies, and how these should be interpreted and applied to the proposed development. The fourth section then appraises the proposed development against those policies and other considerations. Conclusions are drawn at section five.

2. SITE AND PROPOSED DEVELOPMENT

- 2.1 The property is located on the south side of Frognal Lane, opposite the junction with Chesterford Gardens. Though detached, the property is modest in scale relative to its neighbours and is notably set back from the road. Much of the ground floor is screened by a low brick wall, fence and planting. There is a gated access, leading to a gravel driveway. The property is comprised of brick, under clay tiles, with timber casement windows (with soldier courses above ground floor windows, and below first floor windows). The front façade of the original property is highly symmetrical. The property is pleasant in its appearance but does not have any notable architectural features.
- 2.2 There have been a number of additions to the property, notably an attached garage to its left side, a side return to the right (providing a store, WC and utility area) and a large conservatory to the rear. None of these additions are considered to enhance the property. Various internal alterations have also been made, though none manifest externally. There is a modest garden to the rear, which includes a number of shrubs and trees.
- 2.3 There is an extensive planning history here. A schedule is set out at Appendix 1. This identifies a number of proposals to substantially extend and alter the property, though to date, none have been implemented.
- 2.4 As set out above, more recently, an application was approved at Planning Committee on 18th June 2020 and is subject to a resolution to grant (ref. 2019/4220/P), for:

“Demolition of existing dwelling and erection of replacement dwelling incorporating changes approved under 2018/5502/P dated 04/02/2019 (for two storey rear extensions, first floor side extensions, installation of three dormer windows to the front elevation and one to the rear

elevation, conversion of garage into habitable use and alterations to openings) as well as lowering of first floor windows on front elevation.”

- 2.5 The design of this current application seeks to retain the broad elements of the approved scheme but with some notable enhancements to it. These are set out below.
- 2.6 Firstly, the front of the property is proposed to be amended so that the front door and fenestration is centralised to further formalise the symmetry across the front elevation of the property. The two side returns will continue to be set back but are now of equal width, again to ensure symmetry is achieved across the front façade. As with the approved scheme, three dormer windows are proposed in the roof at the front. A minor increase in ridge height is also proposed to enable improved floor to ceiling heights within the property.
- 2.7 The return to the west side of the property is proposed to be heavily articulated relative to the approved scheme through the inclusion of a protruding chimney breast and additional fenestration. The eastern return is similarly enhanced through additional fenestration, pediments above windows and an elongated soldier course.
- 2.8 At the rear, one principal projecting element is now proposed, rather than two. This is now located in the centre of the property. This is proposed to be formed predominantly of glass and extends to the full height of the property. Given the relocation of this projecting element to the central part of the rear façade, the previous single dormer at the rear is proposed to be replaced with two dormers sat either side of the centralised projecting element.
- 2.9 When read from the front, the roof arrangement appears broadly consistent with the resolution to grant scheme. However, when viewed from the sides, the previous split-ridge design has been replaced with a single flat roof section.

- 2.10 The revised scheme also comprises a basement. This will provide additional facilities, including a pool, gym, cinema room and plant areas. The principle of a basement at the property was established by application 2014/7752/P, approved 11th May 2016. Although that permission has lapsed it nonetheless demonstrates the acceptability of a basement in this location. The neighbouring property, no. 40 Frognal Lane, also has extant permission for a basement (application 2014/5915/P, granted on 12th December 2017).
- 2.11 Further detail on the proposed design of the current proposal is set out in the accompanying Design and Access Statement. The drawings appended to it provide a comparison with the existing, approved and proposed scheme for ease of reference.

3. CONSERVATION AREA

- 3.1 The site is located in the Redington and Frogmal Conservation Area. The surrounding vernacular is generally characterised by Edwardian style housing from the late 19th century. These dwellings are, for the most part, detached and display a variety of forms and architectural styles, centred on red brick with clay roof tiles and occasional render.
- 3.2 The Redington/Frogmal Conservation Area Statement acknowledges that the character and appearance of the Conservation Area is also defined by trees and landscaping fronting the street and identifies that, together with the original pavement, boundary walls and signage, these features make a positive contribution to its character and appearance.
- 3.3 Turning in particular to Frogmal Lane, the street trees and low walls on the southern side of the road have been highlighted in the Redington/Frogmal Conservation Area Statement as elements that contribute to the overall quality of the Conservation Area. Whilst there are certain buildings that are identified as making a notable contribution to the character and appearance of the area, number 38 has not been recognised as such.
- 3.4 38 Frogmal Lane has however historically been considered by the Council to make a positive contribution to the Conservation Area. However, the situation is arguably more nuanced than this.
- 3.5 In his report into the appeal against the refusal of application 2013/7989/P, the Planning Inspector confirmed that “...*the appeal property is noted [ie, by the Council] as making a positive contribution to the Conservation Area within the Redington/Frogmal Conservation Area Statement*” but also confirms that “*the document notes that the majority of buildings in the area do so....” (our emphasis). Indeed, the Conservation Area Statement speaks only of properties*

on Frogmal Lane in general terms, confirming that they are “...of a generally uniform and consistent character on its southern side”. The subject property is however, distinct from this ‘uniform and consistent’ character which is comprised principally of four storey town houses. Indeed, the inclusion of the property within the Redington/Frogmal Conservation Area appears to flow from its physical and historical association with 12 Langland Gardens, rather than its contemporary character relative to the buildings surrounding it.

- 3.6 Added to this, the property is of a notably different scale and character to those nearby. As described above, the property is modest, well-set back, lower than its neighbours and well screened by a brick wall, fence and planting. Indeed, the Appeal Inspector noted that “...much of [the property] would not be visible from the public realm.” This is despite sitting as the truncation of views along and down Chesterford Gardens.
- 3.7 Whilst these factors may be suggestive of a case for neutrality (i.e. in terms of its contribution to the Conservation Area), that would be inconsistent with historic decisions and the Appeal Inspector (who confirmed in his decision that the particular appeal proposal at that time “...would not undermine the positive contribution of the building to the Conservation Area”). However, it remains relevant to the following assessment that the extent of any positive contribution must lie at the lower end of any continuum, particularly given the characteristics of the dwelling relative to its peers whose components contribute far more positively to the underlying character and appearance of this part of Conservation Area. Thus, whilst the building can be said to contribute positively, it does so only minimally.
- 3.8 Before reviewing relevant policy, it must be noted that, pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990, local planning authorities have a statutory responsibility to pay special attention to preserving or

enhancing the character or appearance of Conservation Areas within their jurisdiction. This requirement goes 'beyond policy' and thus, even where proposals appear to accord with policy (or other considerations outweigh policy breaches), the local planning authority must have separate regard to this test.

4. POLICY

- 4.1 The Development Plan consists of the adopted Local Plan (July 2017) along with the London Plan (2016). Also of relevance is Camden Planning Guidance on 'Energy Efficiency and Adaptation' (March 2019) and 'Basements' (March 2018). It is also relevant to consider National Policy as set out within the National Planning Policy Framework (NPPF) particularly in terms of the consideration of heritage assets.

National Policy Requirements

- 4.2 Paragraph 189 of the NPPF confirms that when determining planning applications affecting heritage assets, including Conservation Areas, local planning authorities should require the applicant *"to describe the significance of any heritage assets affected, including any contribution made by their setting."* The NPPF confirms that *"the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."* This is particularly relevant where proposals are similar to those which have already recently been assessed.
- 4.3 Paragraph 193 of the NPPF directs that *"when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*
- 4.4 The NPPF then sets out the criteria that shall apply by reference to the degree of harm to the significance of designated heritage assets arising from the proposed development, including 'substantial harm' and 'less than substantial

harm'. It is firmly considered that no harm arises from the proposed demolition and replacement of the subject dwelling and thus, neither consideration bites.

- 4.5 However, for completeness and without prejudice, Paragraph 196 of the NPPF requires that *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”* Public benefits may include, for example, fewer construction related impacts arising from a particular method or approach.

Camden Local Plan

- 4.6 The requirements of National Policy relating to heritage assets are translated into local provisions via Policy D2 of the adopted Local Plan (July 2017), the underlying objective of which is to *“preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.”*
- 4.7 In respect of the Borough’s Conservations Areas, Policy D2 confirms that *“the Council will take account of Conservation Area Statements, Appraisals and Management Strategies when assessing applications within conservation areas”*. The Policy goes on to set out four general principles in respect of proposals affecting Conservation Areas, stating that the Council will:
- e. *require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area; and*

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- f. *resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*
 - g. *resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*
 - h. *preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden’s architectural heritage.”*

4.8 Further guidance is provided within the supporting text at Paragraphs 7.49 to 7.52 of the Local Plan. This confirms that the Council has a “*...general presumption in favour of retaining buildings that make a positive contribution to the character or appearance of a conservation area, whether they are listed or not, so as to preserve this character and appearance.*” The supporting text further confirms that the Council will “*...resist the total or substantial demolition of buildings which make a positive contribution to a conservation area unless circumstances are shown that outweigh the case for retention*” (our emphasis).

4.9 Applicants are required to “*...justify the demolition of a building that makes a positive contribution to a conservation area*” having regard to the NPPF, Conservation Area Appraisals and other Management Strategies or SPDs. Paragraph 7.50 of the Local Plan confirms that “*...the Council will take account of group value, context and the setting of buildings, as well as their quality as individual structures and any contribution to the setting of listed buildings*” and that “*...applications must clearly show which buildings or parts of buildings are to be demolished.*” Furthermore, proposals involving total demolition “*...must demonstrate.... that effective measures will be taken during demolition and building works to ensure structural stability of retained parts and adjoining structures*” and that “*...before planning permission for demolition is granted,*

the Council must be satisfied that there are acceptable detailed plans for the redevelopment.” Furthermore, “proposals for demolition and reconstruction should be justified in terms of the optimisation of resources and energy use in comparison with the existing building.”

- 4.10 A number of other policies are relevant to this application, as follows.
- 4.11 Policy A1 (Managing the Impact of Development) is concerned primarily with the long term effects of development and protecting the quality of life of occupiers and neighbours through the consideration of matters such as privacy, outlook, sunlight, daylight and overshadowing, etc. The Policy confirms that mitigation will be sought where appropriate.
- 4.12 Policy CC1 (Climate Change Mitigation) requires “...all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation.” With respect of proposals for demolition, criteria (e) requires applicants to “...demonstrate that it is not possible to retain and improve the existing building.” Furthermore, pursuant to criteria (f) the Council “expect[s] all developments to optimise resource efficiency.” The supporting text to Policy CC1 also requires all new development to demonstrate a 19% CO₂ reduction below Part L 2013 Building Regulations. In addition to this, Policy CC2 (Adapting to Climate Change) requires developments to adopt appropriate climate change adaptation measures and utilise sustainable design and construction measures.
- 4.13 Policy CC3 (Water and flooding) requires developments to ensure that they do not increase flood risk, incorporate water efficiency measures and utilise Sustainable Drainage Systems (SuDS) to achieve a greenfield run-off rate where feasible.

4.14 Policy A5 (Basements) states that the Council will only permit basement development where it is demonstrated to its satisfaction that the proposal would not cause harm to:

- a. *neighbouring properties;*
- b. *the structural, ground, or water conditions of the area;*
- c. *the character and amenity of the area;*
- d. *the architectural character of the building; and*
- e. *the significance of heritage assets.*

4.15 The Policy also states that the “... *siting, location, scale and design of basements must have minimal impact on, and be subordinate to, the host building and property*”.

Application of Policy

4.16 The starting point is that the Council will, as a general rule, seek to resist the total or substantial demolition of buildings within Conservation Areas which are considered to make a positive contribution to the character or appearance thereof.

4.17 Notably, Policy and relevant supporting text recognise that demolition in Conservation Areas does occur, and that this can be advantageous, particularly where it removes buildings and/or other components which are considered neutral or which detract from the character and appearance of the Conservation Area. Policy and supporting text also recognise that there are occasions where it is proposed to demolish buildings and/or other components that do contribute positively to the character and appearance of the Conservation Area, but that clear justification is required in these circumstances.

4.18 Without clear guidance, what constitutes ‘justification’ is a matter for the decision-maker, having regard not only to the contribution made by the

particular building and/or component to the character and appearance of the Conservation Area, but also the nature and appearance of any proposed replacement building. Indeed, if the proposed replacement building is *on a par* with that which it replaces (ie, in terms of its contribution to the character and appearance of the Conservation Area), then it shall have met the underlying objective of conservation policy (and indeed, statute) to preserve or enhance the local area. Anything less than this, however, would be at risk of failing that test and may, ultimately, be defeated.

- 4.19 Notwithstanding the requirements of Policy D2, National Policy arguably takes this concept further, in terms of the potential to offset *less than substantial harm*, or in more serious cases, *substantial harm*, through other factors, primarily, benefits arising from the grant of planning permission. There may also be situations where other material considerations direct a decision that is not in accordance with the development plan, though, given the central objective of National Policy is to preserve and where possible, enhance, the status of heritage assets, those material considerations would have to weigh significantly in order to overcome the policy breach.

5 APPRAISAL

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

Principle of Development

- 5.1 Policy D2 seeks to “...resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character and appearance of a Conservation Area”. However, the Council has, in approving application 2019/4220/P, agreed to the principle of demolition and replacement of the existing property. The formal decision will be issued in due course and once the related s106 Agreement is completed. We are not aware of any insurmountable matters in this respect.
- 5.2 The resolution to grant scheme represents thus, a fall-back and is a material consideration in the determination of the current application, particularly as a demonstration of the Council’s willingness to accept the demolition and replacement of the property.
- 5.3 The relevance of a fall-back position, in relation to the determination of a planning application, was chiefly established in ‘Zurich’ [(2012) EWHC 3708 (Admin)], in which Hickinbottom, J, confirmed that:

“The prospect of the fall-back position does not have to be probable or even a high chance of occurring; it has to be only more than a theoretical prospect. Where the possibility of the fall-back position happening is very slight indeed or merely an outside chance, that is sufficient to make it a material consideration”.

- 5.4 Whilst case law confirms that the threshold for achieving materiality is low, the present case clearly goes beyond this and the prospect of that application being implemented in due course (ie, in the event this present proposal did not exist) is entirely probable. The fall-back position is therefore, highly material in the determination of this current application.
- 5.5 Considered against the fall-back scheme, the current proposal offers tangible benefits over it. The fall-back was, but for several minor alterations, a consolidation of various earlier proposals for extensions and alterations to the property. However, the applicant's architect has been afforded a quite unique opportunity to consider the re-design of the dwelling as a whole, rather than a consolidation of individually approved components.

Design Enhancements

- 5.6 It has been established that the existing dwelling's contribution to the Redington/Frognal Conservation Area is positive, albeit, only minimally so. The fall-back scheme enlarges the property but ostensibly makes no greater contribution to the conservation area than the existing dwelling (i.e. it preserves character and appearance, but nothing more). However, through this more fundamental review of the property (noted above) a real opportunity exists to secure a dwelling which makes a materially greater contribution to the character of the conservation area. These design enhancements are set out below.
- 5.7 First, the application proposes to reorganise the front façade such that the fenestration sits symmetrically relative to the centre line of the building (the fenestration was previously offset to the east). This is further enhanced through side returns of equal width (also with symmetrical fenestration). This is important because the Inspector dealing with the 2015 Appeal confirmed that "*much of its positive attributes are contained in its symmetry and form when viewed from the front*". Enhancing that symmetry and form is thus a major part

of how the building will contribute more positively to the character and appearance of the Conservation Area.

- 5.8 It is also proposed to increase the height of the property, although only by a very modest margin. The approved ridge height is 9.4m, whilst the proposed is 9.7m, representing an increase of just 3%.
- 5.9 This minor increase is wholly justified. First, the 2015 Appeal Inspector identified that the site is “...located in a residential area accommodating a range of building types, many of which are significantly larger”. Indeed, relative to 12 Langland Gardens, the existing property appears modest in scale. Second, the property sits on an appreciable east-west slope, meaning that, although, somewhat set back from the road, 40 Frognal Lane sits appreciably higher (see street scene elevation PL-204). Together these factors mean that the property will continue to sit well below the line drawn between its neighbours. Third, and most important, the proposed change does not upset the form of the building or its overall scale, which continues to be the more diminutive within this group.
- 5.10 Drawings appended to the Design & Access Statement provide a comparative exercise in terms of the existing property, the approved scheme and that now proposed. Whilst a number of changes have been made relative to the approved scheme, particularly in terms of the side returns, the envelope of the building remains largely consistent with the previous scheme. The changes to the property will also secure an improved internal layout and more regularly shaped rooms (which previously included a great number of diagonal walls).
- 5.11 The alteration across the rear façade of the building, with the inclusion of the two storey rear glazed projection, creates a double height feature, enhancing the symmetry of the rear of the building and creating visual interest through a notable architectural initiative

- 5.12 In order to enhance the appearance of the western elevation, a greater degree of articulation is proposed along with additional fenestration at both ground and first floor level. In terms of amenity, it is acknowledged that the relationship with 12 Langland Gardens is side to rear. However, the existing boundary fencing and land level changes ensure that there are no issues in terms of privacy at ground floor level, whilst at first floor the proposed window is intended to serve a dressing room. Although there is not considered to be any relationship issues in this respect (given the distances between the two properties), the window is proposed to be obscure glazing. The applicant is willing to accept a condition in this respect.
- 5.13 The application incorporates a basement which will provide additional facilities including a pool, gym, cinema room and plant areas. A substantial amount of the enlargement to the property will therefore take place below ground. The basement does not however, manifest externally, with the exception of two lightwells, one located at the rear of the property, and the other to the forecourt, obscured from any views from the street scene. The lightwells are not therefore visible from the public realm and will not have any impact on the character and appearance of the Conservation Area. An assessment of the basement against the Council's basement policy is set out below.
- 5.14 The other considerable difference proposed within the current application is the introduction of new fenestration (in terms of both its scale, arrangement and detailing). These and other initiatives are set out in the accompanying Design and Access Statement.
- 5.15 It is considered that, taking account of these design enhancements as a whole, it provides a significantly improved scheme that makes a greater contribution to the character and appearance of the Conservation Area.

Basement

- 5.16 An assessment of the basement against the criteria set out within Policy A5 is undertaken at Appendix 2. It is relevant however, that Policy A5 is generally written from the perspective of basements proposed with respect to existing dwellings, rather than those included as part of the scheme at its conception. The wording of several criteria do not therefore, fit with these circumstances. Nonetheless, it has been demonstrated that the basement will not cause harm to: neighbouring properties; the structural, ground or water conditions of the area; the character and amenity of the area; the architectural character of the building; and the significance of heritage assets. Furthermore the basement has been designed so that it is subordinate to the remainder of the building.
- 5.17 The principle of a basement at the property was previously considered to be acceptable. Furthermore, as can be noted from the planning history provided at Appendix 1, there was a juncture when construction of various alterations and extensions to the building and the creation of a basement (with swimming pool) could have been implemented simultaneously; the result of which would have been a dwelling akin to the scale of that presently proposed.

Exerting Appropriate Control

- 5.18 As with the previous application, a number of conditions are implicitly agreed which ensure that the environmental and amenity impacts of development are controlled.
- 5.19 Whilst a Construction Management Plan is to be secured as part of the s106 for the previous application, given the inclusion of a basement with the current scheme a Construction Management Plan (CMP) has been submitted with the application. This has been completed in accordance with the Council's CMP Pro Forma. The CMP deals with a wide range of issues, including access, vehicle routing, site establishment, site layout and facilities, waste

management, hours of operation and consultation and reporting protocols. The CMP is at an advanced stage but given various construction related matters have not yet been finalised it will be updated as appropriate during the determination of the application (as anticipated by the CMP Pro Forma itself). It is considered that the CMP will be similarly secured via a s.106 which ensures the requirements of the CMP are adhered to during the construction process.

- 5.20 As per the proposed conditions with respect of the resolution to grant scheme, the applicant is content to accept a condition requiring 85% of the waste from the demolition of the existing property to be diverted from landfill and that the construction process will maximise materials on-site before salvaging appropriate materials to enable their reuse off-site.
- 5.21 The applicant is also content to accept a condition requiring, prior to any work, submission of evidence of a single building contract for the demolition and replacement of the dwelling, in order to remove the risk of prolonged 'gap' within the Conservation Area.
- 5.22 As with the previous application, it is accepted that the erection of a new, replacement dwelling, generates differences in appearance, for example, in terms of the use of new, un-weathered materials. For this reason, the applicant is content to accept conditions which, rather than seeking to secure materials which 'resemble' the existing building, require the submission and approval of all external materials (bricks, tiles, fenestration, casings, rainwater goods, soil and vent pipes, flues and extractors, etc). A further condition is proposed requiring the submission and approval of a sample brickwork panel, to include the brick type, bond, mortar mix, colour and finished joint profile. Once approved, the brickwork panel would then need to be erected on site and maintained there until the completion of all brickwork. This would help to ensure

that appropriate control is exerted over the external appearance of the proposed replacement dwelling.

- 5.23 In summary, the proposed scheme will ensure significant controls over relevant aspects of the material finish of the proposal and also the construction process. It is considered that the securing of these elements by way of condition will ensure that the development will, primarily, ensure that the character and appearance of the Conservation Area is maintained both during the process and also in terms of the final product.

Other Considerations

- 5.24 The purpose of Policy CC1 is to minimise the effects of development on climate change and the environment. The underlying concern of criteria (e) is that demolition involves the release of carbon, both in terms of the existing building materials, the manufacture of new building materials, and through the process itself. An Energy and Sustainability Statement has been submitted with the application, this analyses the performance of the proposed replacement dwelling, and compares it with a notional refurbishment of the existing property. The current proposal achieves a 16% reduction in carbon emissions when compared with a notional refurbishment of the existing property. Whilst policy requires developments to achieve a reduction in carbon emissions by at least 19% when compared with Building Regulations the current proposal achieves a carbon dioxide emission saving of 23.7%. It is also demonstrated that the current proposal achieves a reduction in carbon emissions of 17.8% per m² when compared to the recently approved application.
- 5.25 In line with Policy CC3, a drainage strategy has been submitted. This demonstrates how the use of Sustainable Urban Drainage Systems, in the form of permeable paving and attenuation storage tanks, have been incorporated to ensure that the scheme achieves a greenfield run off rate.

- 5.26 It is not considered that any amenity issues arise in terms of the application of Policy A1 on the basis that the scheme seeks to replicate the design of the previous application with the majority of changes taking place at the rear whereby no amenity issues arise. The implications of the additional windows within the western elevation have been discussed above at paragraph 5.11.
- 5.27 As with the previous scheme, the dwelling will be designed and constructed so that it complies with Part M4(2) of the Building Regulations and is accessible for future occupiers. Compliance with this requirement can be secured by way of a condition as per the previous scheme.
- 5.28 Cycle storage is to be provided in at the front forecourt of the property in accordance with the requirements of Policy T1 of the Local Plan and is indicated on the Proposed Site Plan. In terms of car parking, as with the previous application the applicant is willing to accept a condition requiring the submission of a plan indicating how the number of cars parked on the front forecourt is restricted along with a legal agreement confirming that residents will not apply for on-street parking permits.
- 5.29 Finally, the application is accompanied by an Arboricultural Implications Assessment (AIA). This identifies the three primary trees to the rear of the property along with the three street trees at the front of the property and the offsite trees located within 12 Langland Gardens. The AIA confirms that the proposal, particularly the basement element, will not adversely affect these trees subject to appropriate measures during the construction process. The applicant is content for a condition to be imposed requiring the construction to take place in line with the measures specified on the Tree Protection Plan.
- 5.30 In summary, the above demonstrates how the proposed replacement dwelling will preserve and enhance the Conservation Area. Furthermore, it is considered

that, taking the application as a whole, including the overall design enhancements, the appropriate controls over the process and the energy and sustainability benefits of the proposal that these comprise sufficient circumstances that outweigh the case for retention of the existing property. This is particularly the case when comparing the current proposal against the fall-back, as the current scheme offers significant betterment.

6 CONCLUSION

- 6.1 This Planning and Heritage Statement accompanies an application for planning permission for the total demolition of the existing dwelling at 38 Frognal Way, Hampstead, and its replacement with a new dwelling incorporating a basement.
- 6.2 The principle of demolishing the existing property was established as part of the previous approval. It was however, acknowledged that the replacement property needs to be well-justified in terms of the loss of a building which is considered to contribute positively to the Conservation Area. There is also a requirement to demonstrate that the replacement property will perform substantially better in terms of its energy requirements than a notional refurbishment of the property and that continues to be the case, even more so, with the current application.
- 6.3 The present application seeks to further enhance the replacement dwelling from the viewpoint of a family occupier. These enhancements are delivered through improved form, symmetry and architectural detailing (facilitating also an improved internal arrangement).
- 6.4 The basement has been designed so to provide additional space without the need to significantly extend the property externally, bearing in mind its existing modest expression. The application is submitted with a Basement Impact Assessment, Construction Management Plan and Tree Protection Plan and the applicant is willing to accept conditions to ensure that appropriate controls are exerted over the construction process. The proposed property also achieves a significant environmental benefit over the previous scheme.
- 6.5 Overall, the proposal results in a well-proportioned property that has been sensitively designed to take into account its location within the Conservation Area. It is considered that the design amendments enhance the property such

that it provides a greater positive contribution to the Conservation Area than any previous scheme here. Accordingly, planning permission should be granted.

APPENDIX 1

APPENDIX 1 – PROPERTY PLANNING HISTORY

No.	Reference	Description	Decision	Date
1	2010/056/P	Renewal and alteration of existing pitched roof, replacement of rear flat roof with pitched roof and alterations to fenestration to first floor windows front and rear to a residential dwelling (class C3).	Approved	05/02/10
2	2012/6336/P	Extension at first floor level above garage and to the rear, extension to provide a rear ground floor level conservatory, alterations to roof of ground floor level extension, raising height of roof of dwelling house (Class C3).	Withdrawn	11/04/13
3	2013/0801/P	Renewal of planning permission granted on 05/02/2010 (2010/0056/P) for the renewal and alteration of existing pitched roof, replacement of rear flat roof with pitched roof and alterations to fenestration to first floor windows front and rear to a residential dwelling (class C3)	Approved	03/04/13
4	2013/2771/P	Extension at first floor level above garage and to the rear, extension to provide a rear ground floor level conservatory, alterations to roof of ground floor level extension, raising height of roof of dwelling house (Class C3).	Approved	28/06/13
5	2013/5313/P	Installation of 3x dormer windows to front elevation, 1x dormer window and 2x rooflights to rear elevation and replacement of roof to ground floor rear extension	Approved	14/11/13
6	2013/7989/P	Two storey rear extensions, first floor side extensions, installation of three dormer windows to the front elevation and one to the rear elevation, conversion of garage into habitable use and alterations to openings	Refused	07/04/14
7	APP/X5210/D/14/2221283	Two storey rear extensions, first floor side extensions, installation of three dormer windows to the front elevation and one to the rear elevation,	Allowed	06/05/15

		conversion of garage into habitable use and alterations to openings.		
8	2014/7752/P	Excavation of basement with pool under footprint of existing house and part of rear garden	Approved	11/05/16
9	2018/5502/P	Two storey rear extensions, first floor side extensions, installation of three dormer windows to the front elevation and one to the rear elevation, conversion of garage into habitable use and alterations to openings.	Approved	04/02/19
10	2019/4220/P	Demolition of existing dwelling and erection of replacement dwelling incorporating changes approved under 2018/5502/P dated 04/02/2019 (for two storey rear extensions, first floor side extensions, installation of three dormer windows to the front elevation and one to the rear elevation, conversion of garage into habitable use and alterations to openings) as well as lowering of first floor windows on front elevation.	Approved	Resolution to Grant 18/06/20

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8th October 2020

APPENDIX 2

APPENDIX 2 - REVIEW OF POLICY A5 – BASEMENTS

Policy Criteria	MRPP Comments
The Council will only permit basement development where it is demonstrated to its satisfaction that the proposal would not cause harm to:	
a. neighbouring properties;	See Basement Impact Assessment.
b. the structural, ground, or water conditions of the area;	See Basement Impact Assessment.
c. the character and amenity of the area;	Lightwells are located at the front and rear of the proposed basement, these are modest in size and not readily apparent from public views within the Conservation Area given the frontage boundary treatment at the site and its location in the north east corner of the site.
d. the architectural character of the building; and	The only external manifestations of the basement are the lightwells located at the front and rear of the property. These have however been sensitively designed so as to not have an adverse impact upon the architectural character of the building as proposed.
e. the significance of heritage assets.	<p>The character and appearance of the Conservation Area is defined by large red brick houses and mature trees. The street trees and low walls on the southern side of Frognal Lane have also been highlighted as elements that contribute to the overall quality of the Conservation Area.</p> <p>With the above in mind, bearing in mind that the only manifestation of the basement is the lightwell which will not be readily visible from street scene, it is not considered that there will be any impact on the significance of the conservation area. The Arboricultural Impact Assessment and Basement</p>

	Impact Assessment demonstrates that the basement will not have a harmful impact on the street trees located at the front of the property and which are identified as contributing to the character of the area.
The siting, location, scale and design of basements must have minimal impact on, and be subordinate to, the host building and property. Basement development should:	
f. not comprise of more than one storey;	Whilst the pool creates a second storey element to the basement it is acknowledged that a pool was considered acceptable as part of the earlier application for a basement on the site (ref. 2014/7752/P). The explanatory text to the Policy states that the Council may allow a proportion of the basement to be deeper to allow development of swimming pools. Furthermore, neighbouring property no. 40 Frognal Lane also has consent for a basement incorporating a pool as a secondary storey element (ref. 2014/5915/P)
g. not be built under an existing basement;	NA
h. not exceed 50% of each garden within the property;	Not breached. The proposed basement is broadly consistent with the rear line of the proposed building and has minimal projection into the rear garden and is therefore well below the 50% objective. The area to the front of the property is a parking forecourt and not strictly therefore a garden. However even if it was considered to be a garden, this is area 182m ² whilst the area of the basement located in the front garden is 85m ² .
i. be less than 1.5 times the footprint of the host building in area;	Not breached. The footprint of the building is 184m ² , the basement is 247m ²
j. extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;	Only very minimal projection into the rear garden therefore criteria is met.

k. not extend into or underneath the garden further than 50% of the depth of the garden;	Following (j) it is assumed that this criteria relates only to the rear garden in which case the criteria is met.
l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and	Generally speaking, that part of the basement that is below the proposed dwelling sits in-board of the property's foundations. Where it does extend beyond is in locations that are set back from property boundaries.
m. avoid the loss of garden space or trees of townscape or amenity value.	No loss of garden space or trees of townscape or amenity value. See AIA.
The Council will require applicants to demonstrate that proposals for basements:	
n. do not harm neighbouring properties, including requiring the provision of a Basement Impact Assessment which shows that the scheme poses a risk of damage to neighbouring properties no higher than Burland Scale 1 'very slight';	See Basement Impact Assessment.
o. avoid adversely affecting drainage and run-off or causing other damage to the water environment;	See Basement Impact Assessment.
p. avoid cumulative impacts;	See Basement Impact Assessment.
q. do not harm the amenity of neighbours;	The basement does not manifest externally other than two small lightwells which will not impact on the amenity of neighbours. The basement will not increase the intensity of use of the building such that there would be harm to neighbouring amenity. The basement does not open itself to the garden area.

<p>r. provide satisfactory landscaping, including adequate soil depth;</p>	<p>Landscaping to be secured by condition. The proposed basement projects to the front rather than the rear of the property and thus lies beneath the parking forecourt where structural considerations prevent a landscaping horizon.</p>
<p>s. do not harm the appearance or setting of the property or the established character of the surrounding area;</p>	<p>Refer to comments at (c) and (e) above.</p>
<p>t. protect important archaeological remains; and</p>	<p>NA</p>
<p>u. do not prejudice the ability of the garden to support trees where they are part of the character of the area.</p>	<p>The only trees located within the garden are at the rear of the property which do not contribute to the character of the area. The previous basement was considered acceptable in this respect.</p>

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8th October 2020